



Paper No. 4

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COPY MAILED**APR 17 2002****OFFICE OF PETITIONS**

In re Application of
Heinz Gerhard Kohn
Application No. 10/015,000
Filed: December 11, 2001
Attorney Docket No. DT-5085

:
: DECISION GRANTING
: PETITION
:
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This is a decision on the petition filed March 6, 2002, requesting that the above-identified application be accorded a filing date of December 11, 2001 with Figures 1-3 as part of the original disclosure.

On December 11, 2001, the above-identified application was deposited. The application included, inter alia, 9 pages of specification including 8 claims, a transmittal letter (3 pages), the filing fee, and a certified copy of German Patent Application No. 10062890.7 to which a claim for foreign priority under 35 U.S.C. 119 is stated on the third page of the transmittal letter. No drawings other than the drawings contained in the German priority document accompanied the original application papers. Accordingly, on January 11, 2002, the Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" requiring drawings necessary for an understanding of the invention and an executed oath or declaration covering the drawings. The Notice stated that the filing date would be the date of receipt of the missing drawings.

In response, on March 6, 2002, the present petition was filed. Petitioner requests that the application be accorded a filing date of December 11, 2001 with Figures 1-3 as part of the original disclosure. In support, petitioner cites the fact that Figures 1-3 were present in the German priority document that accompanied the original application papers deposited in the Office on December 11, 2001.

One sheet of drawings containing Figures 1-3 are included in the German priority document that was present among the original application papers deposited on July 6, 2001. Accordingly, on petition, a copy of those drawings will be construed as the drawings necessary for this application for filing date purposes. In order to avoid any further processing delays, a copy of the sheet of drawings from the German priority document containing Figures 1-3 was produced at the Office and placed in the 10/015,000 file wrapper.

In view of the above, the petition is granted. The Office-produced copy of Figures 1-3 will be used for filing date purposes.

After mailing of this decision, the \$130.00 petition fee will be charged to counsel's deposit account No. 50-0955 as authorized in the petition.

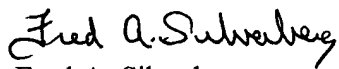
A review of the declaration reveals that it does not execute the application including the sheet of drawings containing Figures 1-3. Accordingly, a newly executed oath or declaration in compliance with 37 CFR 1.63, referencing the entire application (including the drawings), and identifying the specification to which it is directed is required. The \$130.00 large entity surcharge under 37 CFR 1.16(e) is also required.

Applicant is given TWO MONTHS from the date of this decision to file the oath or declaration together with the surcharge as required above in order to avoid abandonment of the application. This time period may be extended pursuant to 37 CFR 1.136(a). The response should be directed to the attention of the Initial Patent Examination Division.

The application is being returned to Office of Initial Patent Examination for:

- (1) according a filing date of December 11, 2001, using the application papers filed December 11, 2001, and the Office-produced copy of the sheet of drawings containing Figures 1-3;
- (2) an indication in the bibliographic data for this application that one (1) sheet of drawings containing Figures 1-3 were present on filing, and
- (3) awaiting any oath or declaration in response to this decision.

Any inquiries related to this decision should be directed to Legal Advisor James Engel at (703) 308-5106.



Fred A. Silverberg
Senior Legal Advisor
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JJE